

Senate joint resolution No. 30, "Amending section 30, article 16, of the Constitution, fixing the duration of all officers for a period of four years, except members of the Legislature and the judges of the Appellate and Supreme Courts," was taken up and read second time.

On motion of Senator Lane, the committee amendments were adopted and resolution ordered engrossed.

Senate joint resolution No. 32, proposing an amendment to section 23, article 16 of the Constitution of the State of Texas, substituting another section therefor, was taken up, read second time, and ordered engrossed.

Senator Gooch called up his motion to reconsider the passage of House bill No. 172 "Authorizing the county commissioners' court of Robertson county to issue bonds for the erection of a court house, and to levy a tax to pay for the same," made to-day. The vote was reconsidered.

Senator Gooch then offered the following amendment: Amend by striking out "Robertson county" and inserting "any county which has no court house at the county seat." Adopted by the following vote:

YEAS—24.

Burges,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Stubbs,
Harris,	Martin of Navarro,	Swain,
Henderson,	Moore,	Terrell,
Hightower,	Patton,	Tilson,
Homan,	Powers,	Weatherred,
Lair,	Rainey,	Wynne.

NAYS—2.

Buchanan of Wood, Houston.

Senator Gooch also offered the following amendment: Amend the caption by striking out "of Robertson county" and inserting "of the several counties of this State." Adopted by the following vote:

YEAS—23.

Burges,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Stubbs,
Harris,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Tilson,
Hightower,	Patton,	Weatherred,
Homan,	Powers,	Wynne.
Lair,	Rainey,	

NAYS—3.

Buchanan of Wood, Houston, Swain.

Bill repassed by the following vote:

YEAS—23.

Burges,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Stubbs,
Harris,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Tilson,
Hightower,	Patton,	Weatherred,
Homan,	Powers,	Wynne.
Lair,	Rainey,	

NAYS—2.

Buchanan of Wood, Houston.

NOT VOTING.

Swain.

On motion of Senator Lane, Senate adjourned till to-morrow morning at 10 o'clock.

TWENTY-FIFTH DAY.

SENATE CHAMBER,
AUSTIN, February 8, 1881. }

The Senate met pursuant to adjournment; Lieutenant-Governor Storey in the chair.

Roll called—quorum present.

Prayer by Rev. Mr. Brown, Chaplain of the House.

On motion of Senator Martin of Navarro, the reading of

12

the journal of yesterday was dispensed with, and the same adopted.

Senator Powers, chairman of Committee on Public Claims and Accounts, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 7, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Claims and Accounts, to whom was referred petition of G. W. Jones, of McLennan county, after due consideration of the same, are of the opinion that the Constitution prevents a favorable report, as involving a measure of personal relief, and they therefore recommend that the committee be discharged from the further consideration of the subject.

POWERS, Chairman.

COMMITTEE ROOM,
AUSTIN, February 7, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Claims and Accounts, to whom was referred the account of John N. Lyle against the State of Texas, for \$525.25, after a full examination of the same, instruct me to report it back to the Senate, with the recommendation that it be referred to Committee on Finance, as the subject matter of this account seems more applicable to that committee.

POWERS, Chairman.

Report adopted and claim so referred.

Senator Stewart, chairman of Judiciary Committee No. 2, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 126, a bill to be entitled "An act to amend article 1300, chapter 11, title 20 of the Revised Civil Statutes of the State of Texas," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate, with the recommendation that it do pass.

STEWART, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 132, a bill to be entitled "An act to repeal article 756, chapter 12, of title 17, of the Penal Code of the State of Texas," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate, with the recommendation that it do not pass.

STEWART, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 97, a bill to be entitled "An act to amend articles 942 and 946 of chapter 4, title 11, of the Code of Criminal Procedure," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate, with the recommendation that it do pass.

STEWART, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 116, a bill to be entitled "An act to prohibit the sale, exchange or gift, within this State, of intoxicating liquors, other than wines and malt liquors, except for medical purposes," have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate, with the recommendation that it do not pass, because of being unconstitutional.

STEWART, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 5, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 109, a bill to be entitled, "An act to annul section 2, of 'an act to require persons enclosing public free school lands, to pay an annual rent therefor, approved April 17, 1879,'" have had the same under consideration, and I am instructed by the committee to report the bill back to the Senate, with the following amendment:

COMMITTEE AMENDMENT.

After the word "Comptroller" strike out remainder of bill, and insert, "and should any county surveyor wilfully or negligently fail to make the report as required by this act, he shall be deemed guilty of a misdemeanor, and be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars, for each section not reported," and as amended, to recommend that it do pass.

STEWART, Chairman.

Bill read first time.

Senator Burges presented a petition signed by citizens of San Saba county, asking the Legislature not to change the judicial districts so as to place that county in a district in which part of the counties are east of the Colorado river, as its business relations are with counties west of that river. Referred to Committee on Judicial Districts.

Senator Martin of Navarro, offered the following resolution:

Resolved, That the Secretary of State be requested to furnish the the Senate with an official copy of the population of the State of Texas for the years 1860, 1870 and 1880, and the Secretary of the Senate be authorized to have two hundred copies printed for the use of the Senate.

Adopted.

Senator Buchanan of Wood, offered the following resolution:

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That there be raised a joint committee consisting of three from the Senate, to be appointed by the President thereof, and five from the House, to be appointed by the Speaker thereof, whose duty it shall be to visit the Agricultural and Mechanical College and normal schools as soon as practicable, during the present session of the Legislature, with power to send for persons and papers, and make a full investigation into, and report the condition of said schools to the respective branches of the Legislature.

Adopted.

Senator Harris introduced a bill entitled "An act to amend section 3 of an act entitled 'an act to authorize the Commission of the General Land Office to contract for the lithographic printing of maps of the various counties of this State, and to provide for the sale of the same, and to make an appropriation to carry this act into effect,' passed at the regular session of the Sixteenth Legislature of the State of Texas." Referred to Committee on Public Lands.

Also, a bill entitled "An act to amend article 1536, chapter 1, title 32, Civil Statutes of the State of Texas, adopted February 28, 1879." Referred to Judiciary Committee No. 1.

Also, a bill entitled "An act to amend articles 1, 4, 5, 6, 7, and 10 of an act establishing and prescribing the manner of ascertaining the boundaries of counties," approved April 22, 1879." Referred to Committee on Counties and County Boundaries.

Senator Powers introduced a bill, with accompanying petition, entitled "An act to create the county of John Upton, and to define the boundaries of the same." Referred to Committee on Judicial Districts.

Hour for special order having arrived, being substitute Senate bill No. 28, entitled "An act to amend article 560 of the Code of Criminal Procedure," on motion of Senator Hightower, special order was postponed to take up Senate bill No. 79, entitled "An act to amend article 1659 of an act entitled 'an act to adopt and establish the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature of the State of Texas, prescribing the time of holding general elections."

The bill was accordingly taken up, and on motion of Senator Hightower was made the special order for to-morrow.

Senator Homan moved to further postpone special order till 11 o'clock, and reconsider the vote cast on yesterday engrossing Senate bill No. 10, entitled "An act to prescribe the requisites of indictments in certain cases." Adopted.

Senator Burges offered the following amendment: Amend by striking out in lines 7 and 8, in section 1, the words "contrary to the form of the statute." Lost.

Senator Patton offered the following amendment: After "judgment" in line 6, section 1, add "that will give the defendant notice of the particular offense with which he is charged."

Senator Powers proposed to amend Senator Patton's amendment by inserting the same after the word "certainty," in line 5. Accepted.

The amendment, as amended, was then adopted.

Senator Patton offered the following additional amendment: In section 5, line 1, after "law," insert "to ascertain person," and strike out "or the person to whom sold."

Senator Homan offered the following substitute for Senator Patton's amendment: After "law," in line 1, page 2, insert "naming the person to whom sold," and after "sold," in same line, strike out the words "or the person to whom sold." Substitute accepted and adopted.

On motion of Senator Homan, regular business was further postponed till pending bill should be disposed of.

Senator Patton also offered to amend as follows: In section 3, line 14, strike out "generally" and add "defining the place."

Senator Powers proposed to substitute as follows: Substitute Senator Patton's amendment by the following: "Strike out the word 'generally.'" Substitute adopted.

A message was received from the House announcing the passage by that body of Senate bill No. 60, entitled "An act to amend an act entitled 'an act to create a commission of arbitration and award, and define the powers and duties thereof, and to make appropriation to pay the salaries of the judges thereof,' approved July 9, 1879."

The President then signed House bill No. 46, entitled "An act to amend section 1 of 'an act to diminish the civil and criminal jurisdiction of the county courts of certain counties in this State, and conform the jurisdiction of the district courts of said counties to such change,' approved March 27, 1879."

Senator Henderson offered the following amendment: "Amend by striking out of the bill all that relates to felonies, and confine the bill to misdemeanors."

Senator Gooch moved the previous question on pending bill and amendment. Motion seconded, and main question ordered.

Amendment lost, and bill ordered engrossed.

Senator Gooch moved a reconsideration, to give Senators the privilege of having their votes recorded. Adopted.

Bill reconsidered, and ordered engrossed by the following vote:

YEAS—14.		
Buchanan of Wood,	Homan,	Rainey,
Burges,	Lair,	Stubbs,
Gooch,	Martin of Navarro,	Tilson,
Harris,	Moore,	Weathered.
Hightower,	Powers,	

NAYS—12.		
Cooper,	Lightfoot,	Stewart,
Henderson,	Martin of Cooke,	Swain,
Houston,	Patton,	Terrell,
Lane,	Shannon,	Wynne.

Senator Gooch moved to reconsider the vote just taken, and to lay that motion on the table. Carried by the following vote:

YEAS—13.		
Buchanan of Wood,	Lair,	Rainey,
Gooch,	Martin of Navarro,	Stubbs,
Harris,	Moore,	Tilson,
Hightower,	Powers,	Weathered.
Homan,		

NAYS—13		
Burges,	Lightfoot,	Stewart,
Cooper,	Martin of Cooke,	Swain,
Henderson,	Patton,	Terrell,
Houston,	Shannon,	Wynne.
Lane,		

There being a tie, the President voted yea, and declared the motion carried.

Senator Cooper asked that the following reasons for voting against the bill be spread upon the journal:

I vote no, because I believe some of the provisions of this bill to be in conflict with the constitutional provision that a defendant "shall have the right to demand the nature and cause of the accusation against him;" and further, I believe if this bill should become the law, that it would tend to destroy, if not destroy, all system and method in the practice and procedure, by leaving the court comparatively powerless to enforce the larger number of rules governing the subject of pleading.

Rules must be enforced to secure order and system; and even a bad rule may be much better than no system whatever. Mr. Bishop says: "Every right of a defendant must be made available to him in some way, or it is practically no right." Some rights, it appears, cannot be made available under the provisions of this bill.

Senator Burges entered the following protest, and asked that it be spread on the journal:

My reasons for voting against the engrossment of Senate bill No. 10 are: The vote was had under the previous question, thus cutting off debate, and because the bill needed amendments; and while favoring the objects of the bill, I could not vote for it without amendments, that in my judgment were absolutely needed to perfect the bill.

Senator Stubbs, for Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 8, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined the following Senate joint resolutions, viz: No. 30, "Joint resolution amending section 30, article 16, of the Constitution, fixing the duration of all offices in the State for a period of four years except members of the Legislature and judges of the Appellate and Supreme Courts."

No. 32, "Joint resolution proposing an amendment to article 16, by substituting for section 23, of article 16, of the Constitution of the State of Texas, another section;" and report the same correctly engrossed.

STUBBS, for committee.

Substitute for Senate bill No. 28, entitled "An act to amend article 560 of the Code of Criminal Procedure," being special order, was taken up, read second time and ordered engrossed.

Senator Houston moved to take up his motion to reconsider the passage of House bill No. 51, entitled "An act defining the civil and criminal jurisdiction of the county courts of Henderson, Parker, Lampasas, Blanco and Bexar counties, and conform to the jurisdiction of the district and justices' courts of said counties to such change," and make special order for next Monday week. Adopted.

Senator Shannon moved to take up the resolution and report of the Committee on State Affairs on apportionment, and that it be made the special order for to-morrow morning after morning call. Adopted.

On motion of Senator Terrell, Senate bill No. 98, entitled "An act to establish the University of Texas," was taken up and made special order for Thursday next, after morning call.

Senator Gooch offered to amend by adding "from day to day until disposed of." Accepted by Senator Terrell and adopted.

Senator Patton, chairman of the Committee on State Affairs, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 8, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on State Affairs have considered Senate bill No. 181, entitled "An act to amend the caption and section 3 of an act approved April 27, 1879, entitled 'an act granting a land certificate of 640 acres to each of the indigent veterans who was en-

gaged in the struggle for Texas Independence, etc.," and they direct me to report the same back, with the recommendation that it do pass.

PATTON, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 8, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on State Affairs have considered House resolution providing for the appointment of a committee from the Senate and House on congressional representation and apportionment, and a committee on State senatorial and representative representation and apportionment, and they recommend that the resolution be amended by substituting for the word "five" in the resolution "seven," and that the resolution so amended do pass.

PATTON, Chairman.

Resolution read first time.

The President, after reading its caption, signed House joint resolution No. 11, "granting leave of absence to Hon. J. Abbott, Judge of the Twenty-eighth Judicial District."

Senator Martin of Cooke, chairman of Committee on Public Lands, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 2, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Lands to whom was referred Senate bill No. 7, "An act to create a commission to sell and lease the public lands of the State of Texas," after careful consideration of the same, instruct me to report the same back to the Senate with the accompanying substitute, and recommend the adoption of the substitute. The committee, in view of the great importance of this bill, instruct me to ask that two hundred copies of the substitute be printed for the use of the Senate.

MARTIN of Cooke, Chairman.

Report adopted and two hundred copies ordered printed.

Senator Gooch, by leave, presented a memorial of sundry citizens of Anderson county praying that the annual license tax on retail liquor dealers be fixed at \$500, and be required to be paid in advance. Referred to Committee on State Affairs.

Also, by leave, a petition from sundry ladies of Anderson county, requesting the passage of laws further restricting the sale of intoxicating liquors and punishing crimes committed by persons while under its influence or effect. Referred to Committee on State Affairs.

Senator Cooper, by leave, introduced a bill entitled "An act to amend article 4239 of the Revised Civil Statutes of the State of Texas." Referred to Committee on Internal Improvements.

Senator Martin of Navarro, by leave, introduced a bill entitled "An act to amend title 39, article 2809 of the Revised Civil Statutes, and providing for the advertising of certain property sold under execution." Referred to Judiciary Committee No. 1.

Senator Weatherred, chairman of Committee on Judicial Districts, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 8, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Judicial Districts to whom was referred Senate bill No. 139, entitled "An act to amend an act entitled 'an act to change and define the times of holding the terms of the district courts in the Fifth Judicial District of the State of Texas,' approved April 23, 1879," having considered the same, I am instructed to report the bill back to the Senate and recommend its passage.

WEATHERRED, Chairman.

Bill read first time.

Senate joint resolution No. 27, proposing to amend section 24, article 3, of the Constitution of the State of Texas, was taken up, when, on motion of Senator Martin of Navarro, the Senate adjourned till to-morrow at 10 A. M.